

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 019404-001200US	
I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent and Trademark Office on <u>February 12, 2009</u> . TOWNSEND and TOWNSEND and CREW LLP By: <u>/Dianna L. Smith/</u> Dianna L. Smith		Application Number 10/748,441	Filed December 29, 2003
		First Named Inventor Bennett Cookson, Jr. et al.	
		Art Unit 3715	Examiner Nikolai A. Gishnock
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>42,358</u>. <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____ </div> <div style="width: 45%; text-align: right;"> <u>/Irvin E. Branch/</u> _____ Signature <u>Irvin E. Branch</u> _____ Typed or printed name <u>303.571.4000</u> _____ Telephone number <u>February 12, 2009</u> _____ Date </div> </div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

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PATENT
Attorney Docket No.: 019404-001200US

TOWNSEND and TOWNSEND and CREW LLP

By: /Dianna L. Smith/
Dianna L. Smith

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Bennett Cookson Jr. et al.

Application No.: 10/748,441

Filed: December 29, 2003

For: GENEALOGICAL
INVESTIGATION AND
DOCUMENTATION SYSTEMS AND
METHODS

Customer No.: 20350

Confirmation No. 2382

Examiner: Nikolai A. Gishnock

Technology Center/Art Unit: 3714

PRE-APPEAL BRIEF
REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicants request review of the final rejection for the above-identified application. A Request For Reconsideration Under 37 CFR 1.116 Expedited Procedure was filed on January 8, 2009. No amendments to the claims are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated herein.

REMARKS/ARGUMENTS

Claims 1, 7-15, 18, 19, 21-34, and 38-41 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2002/0032687 to Huff (“Huff”).

Claims 2 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huff in view of U.S. Patent No. 4,501,559 to Griswold et al. (“Griswold”).

Claims 3-6, 17, 20, 35, and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huff in view of U.S. Patent No. 6,389,429 to Kane et al. (“Kane”).

Rejections Under 35 U.S.C. § 102

The Applicants respectfully request reconsideration of the rejections of all claims rejected under 35 U.S.C. § 102. Huff is cited for anticipating the claims but does not teach each and every claim element, either expressly or impliedly, as required for a proper rejection under 35 U.S.C. § 102. Specifically, Huff does not teach “identifying pairs of records having similar data; [and] for each identified pair of individual node records, comparing related individual node records and deciding based on predetermined criteria whether the identified pair of individual node records represent the same person.” In other words, node records that are *related to* pairs of records having similar data are compared. *Predetermined criteria* is then used to determine whether the original records represent the same person. Huff does not teach comparing related node records and using predetermined criteria to assess pairs of records having similar data. Hence, claim 1 is believed to be allowable, at least for this reason. Claim 15 includes a similar element and is believed to be allowable, at least for the foregoing reason.

Regarding the claim elements quoted above, the final Office Action cites Huff, ¶¶[0123] and [0164]. Both of which are reproduced below:

[0123] Overcoming Duplication and Loss. Up to now the genealogy procedures the world has used comprise paper systems or relatively small accumulations of

names in linked electronic form on a home PC. Online internet sources are mostly limited to copies of the PC format data or large lists of raw data such as births, deaths, and the like. Nobody has attempted the online accumulation and comparison of data from multiple sources with the goal of accurate linking, and to allow for multiple data interpretations so that a solution or compromise could finally be reached without loss of any contributed data.

[0164] The computer support that can be given to this splicing/hiding process is as follows. The delete transaction contains the number of the name to be deleted, the number of the replacement name, and the user number of the person submitting the transaction. To make sure that the deleting person has done his homework (and keeps it current in the future), the delete record will have an indicator that must be set on to put and keep the transaction in effect. Before the record is stored in the database and the indicator is set on, the computer first counts the connections of the old name to be deleted. It then counts the connections of the name to replace it. The new name must have at least as many links backward (plus spouse and children--sideways and forward) as does the old name. This check is not conclusive, but it ensures that the person making the deletion has done his homework. To limit search time, the search on the new name need only go back far enough to show that it is equal to or greater than the old name. Otherwise no switch is set on, and the apparent duplication continues to appear.

The quoted elements appear nowhere in these citations. The final Office Action makes a number of unsupportable assertions about these teachings to arrive at the rejection. First, the final Office Action (p. 12) states that “Huff teaches comparing records to determine whether they represent the same person.” There is no such teaching. Next, the final Office Action improperly summarizes this as “understood to be identifying records having similar data.” This, however, is an unwarranted summarization of an absent teaching. Moreover, the final Office Action takes the unjustifiable position that “the names and numbers of such spousal and child links are ‘predetermined criteria’, due to the fact that they are previously entered; further, that the method of performing such subsequent analysis is itself ‘predetermined criteria’.” In other words, the reasoning articulated in the final Office Action to reach the rejection imports teaching that is not present, assigns an unwarranted interpretation to the imported teaching, then tortures the result to fit “predetermined criteria” in a manner that essentially strips the words from the claim.

Accordingly, the Applicants respectfully request review of the rejections of claims 1 and 15 for the foregoing reasons.

The Applicants maintain that claims 29 and 39 are allowable because Huff does not teach “perform[ing] a relationship analysis to infer relationships among persona records using the assertions of the persona records; if a relationship is inferred, assign at least one relationship type to the relationship between the records.” In responding to this argument from the Applicant’s prior response, then final Office Action (p. 12) reasons that “Huff’s checking is understood to be inferring a relationship between two records, that is, determining if they represent the same person.” The Applicants maintain that this is an unsupportable summarization of Huff’s “checking.” Further, that Huff assigns an “equality” relationship type to the relationship is crediting Huff with teaching something that Huff simply does not teach. Accordingly, claims 29 and 39 are believed to be allowable, at least for the foregoing reasons.

The remaining claims depend from one of the independent claims discussed above and are believed to be allowable, at least for the reasons stated above.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

/Irvin E. Branch/

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